

Appin. No.09/966,495

Attorney Docket No. 10541-281

II. Remarks

Reconsideration and re-examination of this application in view of the above amendments and the following remarks is herein respectfully requested.

Claims 1-25 remain pending.

Allowable Subject Matter

The undersigned acknowledges the examiner's indication of the allowability of claims 4 and 17. Claims 4 and 17 were objected to as being dependent upon a rejected base claim, but as noted by the examiner, would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Accordingly, applicants have added claims 24 and 25 that are analogous to claim 17.

Claim Rejections - 35 U.S.C. §103

Claims 1-3, 5-16, and 18-23 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,468,439 to Whitehurst et al. (Whitehurst) in view of U.S. Patent No. 6,331,063 to Kamada et al. (Kamada).

With regard to claims 1-3, 5-16, and 18-23, applicant suggests that a *prima facie* case for obviousness has not been established by the examiner. "The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness." MPEP §2142. The examiner has not provided



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factual support that the subject matter of claims 1-3, 5-16, and 18-23 would have been obvious at the time of the invention to a person of ordinary skill in the art.

While Whitehurst teaches a tri-metal etching process and Kamada teaches an LED located in an indentation in a metal substrate, there is no teaching or suggestion in either reference to combine these technologies in the manner claimed.

The MPEP §2143.01 provides:

The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

Whitehurst is not related to creating a reflective surface for LED assemblies and Kamada is not related to a tri-metal etching process. As such, applicants respectfully submit that neither reference teaches or suggests the combination, and therefore the combination is improper and made only in view of hindsight. Accordingly, applicants respectfully request withdrawal of the rejections under 35 U.S.C. §103.

Conclusion

In view of the above amendments and remarks, it is respectfully submitted that the present form of the claims are patentably distinguishable over the art of



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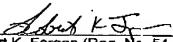
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record and that this application is now in condition for allowance. Such action is respectfully requested.

Respectfully submitted,

August 19, 2005

Date


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